

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

DARNELL BARNES,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

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No. 2:19-cv-02536-TLP-tmp

**ORDER TO MODIFY THE DOCKET
AND
DIRECTING RESPONDENT TO RESPOND
TO PETITION UNDER 28 U.S.C § 2241**

On May 20, 2019, Petitioner Darnell Barnes¹ moved pro se to Be Granted For the 7 Days Good Time Under the First Step Act of 2018 in the United States District Court for the Eastern District of Virginia. (*See* ECF No. 1.) The United States responded in opposition to Barnes' motion. (*See* ECF No. 2–3.) It argued that the motion should be denied because: (1) Section 102(b) of the First Step Act had not yet gone into effect; and (2) the calculation of good time credit is exclusively a matter for the Bureau of Prisons to calculate and may only be challenged in a Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 (“§ 2241 Petition”) after the exhaustion of all administrative remedies. (*See id.* at PageID 32.) The United States noted that Barnes had not exhausted his administrative remedies. (*Id.* at PageID 34.)

In short order, the United States District Court for the Eastern District of Virginia interpreted Barnes' motion as a § 2241 Petition and, because that court lacked jurisdiction,

¹ Barnes is a federal prisoner, Bureau of Prisons (“BOP”) register number 15868-016. Barnes is currently imprisoned at the Federal Correctional Institution, Satellite Camp, in Memphis, Tennessee (“FCI Memphis”).

transferred the petition to this Court. (*See* ECF Nos. 2 & 2-1.) The § 2241 Petition was docketed in this Court. This Court then directed Barnes to pay the filing fee or move for in forma pauperis status. (*See* ECF No. 6.) Barnes paid the case filing fee. (ECF No. 8.) The Clerk shall record the respondent as FCI Memphis Warden Angela Owens.²

Even though the United States has responded, Owens, the proper respondent, has not had the opportunity to respond to this § 2241 Petition. What is more, the good-time credit provisions of the First Step Act are now in effect,³ and it appears that Barnes has taken additional steps to exhaust administrative remedies. (*See* ECF No. 7.)

It is **ORDERED** that the Clerk shall serve a copy of the § 2241 Petition and this order on Respondent Owens by certified mail and shall provide a copy of the § 2241 Petition and this order to the United States Attorney for the Western District of Tennessee. Under Federal Rule of Civil Procedure 4(i), the Clerk shall also send copies of the § 2241 Petition and this order by certified mail to Attorney General William P. Barr and Kathleen Hawk Sawyer, the Director of the Federal Bureau of Prisons.

It is **ORDERED** that Respondent shall respond to the § 2241 Petition within twenty-eight (28) days. Petitioner may, if he chooses, submit a reply to Respondent's Answer or response within twenty-eight (28) days of service. Petitioner may move for an extension of time to reply if that motion is filed on or before the due date of his response. The Court will address the merits of the § 2241 Petition, or of any motion filed by Respondent, after the expiration of Petitioner's time to reply, as extended.

² The Clerk is directed to substitute Owens for the United States of America as respondent. *See* Fed. R. Civ. P. 25(d).

³ The amendments made to good conduct time took effect on July 19, 2019, the date the Department of Justice published the risk and needs assessment system. (*See* ECF No. 2-1 at PageID 11.)

IT IS SO ORDERED, this 12th day of September, 2019.

s/ Thomas L. Parker

THOMAS L. PARKER
UNITED STATES DISTRICT JUDGE